

An organization formed to provide low income housing to families but giving preference for housing to employees of a farm proprietorship operated by the individual who created and controls the organization does not qualify for exemption under section 501(c)(3) of the Code.

Advice has been requested whether an organization that otherwise qualifies for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954 is operated for charitable purposes by reason of the activities described below.

The organization was formed to provide dwelling accommodations for low income families. It was created and is controlled by an individual who operates a farm as a proprietorship. The organization has constructed ten rental units adjacent to the farm. Applicants for housing are given preference according to type of position and length of employment on the farm. All of the units are occupied by regular employees of the farm. The individual pays the rent for the employees. All of the housing units are occupied by low income families.

The organization was initially funded through a loan from a governmental agency and contributions from the individual. Its receipts are from rental payments and its disbursements are for repayments on the loan and upkeep of the rental units.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for charitable purposes.

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

Providing housing for low income families may be a charitable activity. See Rev. Rul. 70-585, C.B. 1970-2, 115. However, since the organization gives preference for housing to employees of the farm proprietorship operated by the individual who created and controls the organization, and all the units are in fact occupied by such employees, the organization is serving the private interests of the individual rather than a public interest.

Accordingly, it is held that the organization's activities are not charitable and that it does not qualify for exemption from Federal income tax under section 501(c)(3) of the Code.